IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.19750 of 1999

Between:

T.K.Rao S/o. Kanakaiah,
R/o. Muthagudam(P), Penuballi(M),
Khammam District.

..... PETITIONER

AND

1 The Presiding Officer,
Industrial Tribunal-Cum-Labour Court, Warangal.
2 The Depot Manager,
A.P.S.R.T.C., Bhadrachalam Depot,
Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order, or Direction, more particularly one in nature of Writ of CERTIORARI and after calling for records in I.D.No. 153/91 on the file of the 1st Respondent and quash the award dated 12-1-1994 in not granting any relief as illegal, arbitrary and unjust; and consequently direct the respondents to reinstate the petitioner into service with continuity of service, back-wages and all attendant benefits; and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr. G.RAVI MOHAN

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. P.RAJANI REDDY

The Court made the following :

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ORAL ORDER:

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This Writ Petition is filed by the workman being aggrieved by the Award dated 12-1-1994 in I.D.No.153 of 1991 on the file of the Industrial Tribunal-cum-Labour Court, Warangal.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation in the year 1988. He worked as such for about three years. While so, when he was conducting the bus bearing No.AAZ 5495 on 4-7-1990 on the route Bhadrachalam to Amalgudem, a check was exercised at 1930 hours at stage No.7/8. The checking officials found certain irregularities. Thereafter, a charge sheet dated 16-7-1990 was issued to him enumerating the following charges:

> "1. For having violated rule 'issue & start' which constitutes misconduct under Reg.28(xxxii) of APSRTCF Employees (Conduct) Regulations,1963.
>
> 2. For having failed to issue tickets to a batch of four passengers, who boarded your bus at Lakshmipuram stage No.6 and alighting at Mariagudem stage No.7/8 without tickets even though you have collected the requisite fare of Rs.1.50 each (total six rupees) from a batch of four passengers as above which constitutes misconduct U/R 28 (vi) (a) of APSRTC Employees (Conduct) Reg.1963.
>
> 3. For having closed the S.R. upto stage No.7 without issue of tickets to the above said passengers, which constitutes misconduct U/R 28(xxxii) of APSRTC Employees (Conduct) Reg.1963."

He submitted explanation for the said charge sheet. Having not satisfied with the said explanation offered by him, a regular enquiry was conducted. The Enquiry Officer submitted a report holding him guilty of the charges without there being any

evidence to that effect. The disciplinary authority accepted the report of the Enquiry Officer and after completing the formalities, issued the final Proceedings dated 23-2-1991 removing him from service. Aggrieved by the same, he filed an appeal before the competent authority; however, the same was rejected. Having no other option, he raised an industrial dispute under Section 2-A(2) of the Industrial Disputes Act,1947 and the same was taken on file in I.D.No.153 of 1991 on the file of the industrial Tribunal-cum-Labour Court, Warangal. The Labour Court also did not appreciate the evidence on record properly and refused to interfere with the order of removal passed by the disciplinary authority as confirmed by the appellate authority. Hence, this Writ Petition.

Though no counter affidavit is filed, the learned Standing Counsel for the respondent-Corporation strenuously contended that the award passed by the Labour Court is just and proper and does not call for interference of this Court under Article 226 of the Constitution of India. The charges framed against the petitioner are serious in nature and the Labour Court rightly appreciated the evidence on record and came to the conclusion that the petitioner does not deserve any relief as prayed for.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award under challenge and other material made available on record.

Charge No.2 is to the effect that the petitioner having collected the requisite fare, failed to issue tickets to a batch of four passengers, who boarded the bus at stage No.6 and alighting without any ticket at stage No.7/8. Thus, it is a case of ‘collected and not issued’. The Labour Court noticed that the respondent-management had carefully perused the enquiry report and other evidence and came to an independent conclusion that the charges were proved beyond doubt and, therefore, rightly imposed the punishment of removal from service. Further, it was observed by the Labour Court that the petitioner failed to issue tickets to a batch of four passengers after collecting the requisite fare from them at stage No.6 in a meagre load of 30 passengers in the bus and all the four passengers were found alighting at stage No.7/8. The petitioner with an ill motive and bad intention closed the S.R. upto stage No.7, as if he had issued tickets to all the passengers in the bus, though, in fact, he has not issued tickets to a batch of four passengers from whom he has collected the requisite fare amount. But, for the timely check of the checking officials,

the petitioner would have pocketed the legitimate revenues of the Corporation to gain himself wrongfully. The findings arrived at by the Labour Court, in the facts and circumstances of the case, cannot be said to be either arbitrary or illegal.

However, since there was no past misconduct attributed to the petitioner and his past conduct was clean, I am of the opinion that the petitioner should have been given an opportunity to serve the Corporation. The Labour Court, therefore, has not properly exercised the discretionary powers vested in it under Section 11-A of the Industrial Disputes Act,1947. The punishment imposed by the Management is disproportionate to that of the misconduct proved against the petitioner. As such, the impugned award is liable to be set aside and a lesser punishment than that of the removal from service needs to be imposed against the petitioner. Accordingly, the impugned Award is set aside.

In the result, the respondent-management is directed to reinstate the petitioner into service as a fresh Conductor. It is made clear that the petitioner is not entitled for continuity of service or any other benefit for the service rendered by him before his termination or for the period during which he was kept out of employment.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

02-8-2005

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